IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4350 OF 2006

1. Mohd. Fahimuddin Zahid & 4 ors. ..Applicants

Vs.

The State of Maharashtra ..Respondent

Mr. K.H. Giri for applicants.
Ms. R.M. Gadhvi, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : January 16, 2007.

P.C.:

1. Further to the order dated 12/1/2007 passed in this application, the applicant no.2 - Shamaila, wife of applicant no.1, is present before me. On the basis of the Student Identity Card of the Institute of Distance Education University of Mumbai and the certificate of Diploma in Computer Applications and Multilingual D.T.P. issued on 2/1/2003 in favour of the applicant no.2 by the National Council for Promotion of Urdu Language, the learned APP has identified the applicant no.2. The applicant no.2 further states that though her surname has shown as Punjabi in the Identity Card as well as the Diploma

Certificate, on her marriage with applicant no.1, on 30/4/2004 at Mumbai she stopped using the surname Punjabi.

2. The wife has confirmed that she had filed an application on 23/3/2006 praying for compounding the offence and for quashing C.C. No.16/PW/2006 and the application was filed on her own free will as she was satisfied that the matrimonial dispute did not subsist and it was being in the interest of herself and her child to end the matrimonial dispute and join the husband's company. The statements made by the wife today before the court make out a case that the application was submitted by her bonafide on voluntarily. Therefore, the law laid down in the case of of B.S. Joshi and ors. vs. State of Haryana and anr. [AIR 2003 SC 1386] is squarely applicable in the instant case.

3. Though the offence under Section 498-A of IPC is not compoundable, this court has the powers to allow such an application for compounding if it is noticed that in a matrimonial disputes both the

spouses have arrived at an amicable settlement, the settlement is in the interest of both the spouses and the children and the compounding is sought to be prayed for for the welfare of the parties by following the law laid down in the case of B.S. Joshi (Supra).

4. Hence this application succeeds and the same is hereby allowed. The order dated 29/4/2006 passed by the Metropolitan Magistrate, 32nd Court, Bandra, Mumbai is hereby set aside and the application filed for compounding in C.C. No.16/PW/2006 is hereby allowed and consequently the process issued in the said case stands set aside.

(B.H. Marlapalle,J.)